

<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	10/523,337	LYNCH ET AL.	
	Examiner	Art Unit	
	Andrew B. Freistein	1626	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment and TD filed 1/5/07.
2. ☒ The allowed claim(s) is/are 11-20, 22, 28, 34, 44 & 45 (now 2-11, 12, 13, 1, 14 and 15).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

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|---|---|
| <ol style="list-style-type: none"> <li>1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br/>Paper No./Mail Date <u>10/2/2006 &amp; 1/5/2007</u></li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____.</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____.</li> </ol> |
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### **DETAILED ACTION**

The amendment filed 01/05/2007 was entered. Claims 11-20, 22, 28, 34, 44 and 45 are pending. Claims 1-10, 21, 23-27, 29-33 and 35-43 were cancelled.

#### ***Information Disclosure Statement***

Applicant's information disclosure statements (IDS), filed on 10/2/2006 and 1/5/2007, have been considered. Please refer to Applicant's copies of the 1449 submitted herewith.

#### ***Restriction Requirement***

The elected group is deemed allowable. Claim 28 is rejoined as a method of use claim.

#### ***Double Patenting***

Claims 11-20, 22, 34, 38 and 39 were rejected on the ground of nonstatutory double patenting over claims 1-3 of U. S. Patent No. 7,064,217 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The terminal disclaimer filed on 01/05/2007 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of US 7,064,217 has been reviewed and is accepted. The terminal disclaimer has been recorded. As a result, the rejection is withdrawn.

#### ***Examiner's Amendment***

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided

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by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

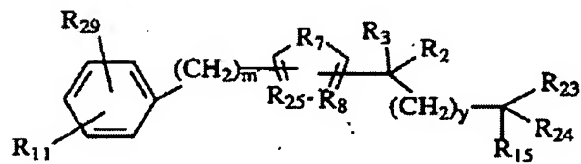
Authorization for this examiner's amendment was given during telephone interviews with Attorney William F. Prout on 1/31/2007 and 2/07/2007.

This application has been amended as follows:

1. In claim 19, on page 5, after, "A" and before "composition", insert --pharmaceutical--.
2. In claim 22, on page 6, after, "The composition of claim", delete "38" and insert --20--.

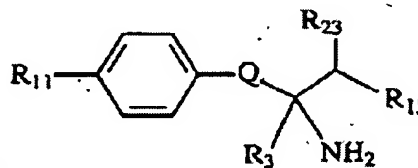
### ***Reasons for Allowance***

The instant invention is a compound of the formula



, a pharmaceutical composition comprising a

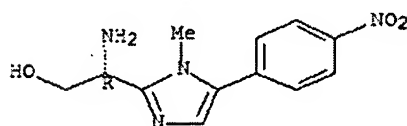
compound, and a method of promoting wound healing in a warm blooded vertebrate



comprising administering a compound of the formula

wherein Q is imidazolyl.

The closest relevant art is WO 98/27108, which discloses the compound



(see Yatabe et al., STN International, HCAPLUS

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Database, Columbus, OH, Accession No. 1998:424263, Reg. No. 209527-89-9 (2007)).

The instant application differs from the relevant art in that the instant application does not claim a phenyl group substituted with a nitro group and the does not claim an imidazolyl substituted with a methyl group.

According to Vogler et al., sphingosine-1-phosphate (S1P) is involved in wound healing, because S1P is stored in human platelets and released at wounded sites (see Volger et al., Sphingosine-1-Phosphate and Its Potentially Paradoxical Effects on Critical Parameters of Cutaneous Wound Healing," J. Investigative Dermatology, Vol. 120, No. 4, pp. 693-700 (April 2003)).

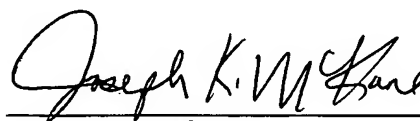
### ***Telephone Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew B. Freistein whose telephone number is (571) 272-8515. The examiner can normally be reached Monday-Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph M<sup>c</sup>Kane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

Andrew B. Freistein  
Patent Examiner, AU 1626



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Joseph K. M<sup>c</sup>Kane  
Supervisory Patent Examiner, AU 1626  
Date: January 31, 2007